

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

ALLEN ALPHONSO ADAMS,

Plaintiff,

v.

COUNTY COMMISSIONER FOR
CALHOUN COUNTY, et al.,

Defendants.

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CASE NO.: 1:11-CV-155 (WLS)

ORDER

Before the Court is a Recommendation from United States Magistrate Judge Thomas Q. Langstaff, filed December 27, 2011. (Doc. 11). It is recommended that Plaintiff's claims against all Defendants other than Defendant Latisha Wesley be dismissed pursuant to 28 U.S.C. § 1915A(b)(1) and (2). (Doc. 11 at 1).

The Recommendation provided the Parties with fourteen (14) days from the date of its service to file written objections to the recommendations therein. (*Id.*) The period for objections expired on Monday, January 9, 2012. (*See generally* Docket). Plaintiff's Objection to the Recommendation, filed as a Motion for Objection, was not filed until January 23, 2012, with no explanation provided for the delay. (Doc. 16). As such, it was not timely filed and will not be considered.¹

¹ Plaintiff's Objections, even if they were timely, are not persuasive. Plaintiff repeatedly objects to the Magistrate Judge's recommendation that Heck v. Humphries, 512 U.S. 477 (1994), prevents Plaintiff from bringing his § 1983 claims that relate to his alleged prosecution for simple assault and/or obstruction of a law enforcement officer. (Doc. 16). As best the Court can tell, Plaintiff contends that he has been wrongfully indicted for obstruction of an officer instead of his alleged original charge of simple assault, and if the Court follows the Heck doctrine, Plaintiff will suffer "more constitutional deprivation" during sentencing. (Doc. 16 at 1, 2). However, Plaintiff does not demonstrate that his conviction or sentence has been invalidated. As such, if Plaintiff's criminal prosecution is complete, Heck remains a bar to Plaintiff's § 1983 claims. Moreover, as the Magistrate Judge noted, Plaintiff has adequate alternatives in the state courts to raise constitutional issues, and it is unclear whether Plaintiff has sought

On March 23, 2012, Plaintiff filed a “Notice for Appeal Document(s) Title (11) an[sic] (29) Orders,” which the Court interprets as a further Objection to the Recommendation (Doc. 11). As this Objection was also untimely without explanation, the Court will not consider it.

Upon review and consideration, the objections set forth in Plaintiff’s “Motion for Objection” (Doc. 16) are **OVERRULED**, and United States Magistrate Judge Langstaff’s December 27, 2011 Recommendation (Doc. 11) is **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein together with the reasons stated and conclusions reached herein. Accordingly, Defendants County Commissioner, Karen Taylor, Chuck Rook, and Patrick Chisholm are **DISMISSED** under 28 U.S.C. § 1915A (b)(1) and (2). Plaintiff may only proceed with his Eighth Amendment claim against Defendant Latisha Wesley.

SO ORDERED, this 17th day of May, 2012.

/s/ W. Louis Sands

**THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT**

relief for these alleged constitutional violations in the state courts. Accordingly, this Court finds that Petitioner’s Objection (Doc. 16) fails to rebut the legally sound recommendation of Judge Langstaff.